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2 **UNITED STATES DISTRICT COURT**
3 **DISTRICT OF NEVADA**
4

5 UNITED STATES OF AMERICA,

6 Plaintiff,

7 vs.

8 JAN ROUVEN FUECHTENER,

9 Defendant.

Case No. 2:16-cr-00100-GMN-CWH

ORDER

10
11 Presently before the court is the United States' Emergency Motion to Stay Magistrate
12 Judge's Order Denying the Government's Emergency Motion for Restraining Order Under All
13 Writs Act Preventing the Disbursement of All Proceeds from the Sale of Defendant's Interest in
14 Real Property and Request for a Temporary Order from the District Court to Restrain Disbursement
15 of All Proceeds from the Sale of Any Property, Real or Personal, in which Defendant Has Any
16 Interest Until the District Court Rules on the Government's Objections to the Magistrate Judge's
17 Report and Recommendation (ECF No. 170), filed on May 25, 2017, which the court construes as a
18 motion for reconsideration. The court held a hearing on the motion on May 26, 2017, and ordered
19 additional briefing. (Mins. of Proceedings (ECF No. 172).) The government filed a supplemental
20 brief (ECF No. 173) on May 30, 2017. Defendant Jan Rouven Fuechtener filed a response (ECF
21 No. 175) to the government's supplemental brief on May 31, 2017. Interested party Frank Alfter
22 filed a response (ECF No. 177) to the government's supplemental brief on June 1, 2017. The court
23 held an additional hearing on June 1, 2017.

24 The parties are familiar with the facts of this case and the court will not repeat them here
25 except where necessary. On May 25, 2017, the court ordered the escrow/title company handling
26 the sale of the residence located at 7080 Donald Nelson Avenue, Las Vegas, Nevada, 89131
27 ("subject property")—which the parties have represented to the court is First American Title—to
28 deposit \$80,300 from the proceeds of the sale of the subject property with the Clerk of Court for the

1 United States District Court for the District of Nevada. (Order (ECF No. 169).) This amount
2 represented \$65,000 in restitution and \$15,300 in special assessments. (*Id.* at 2.) As of the date of
3 this order, the court has not received the deposit of \$80,300. The government now moves for
4 reconsideration of that order and requests the deposit of additional funds into the court's account.
5 Specifically, the government requests \$460,000 in restitution, \$15,300 in assessments, and
6 \$500,000 in statutory fines, for a total of \$975,300.

7 Based on the record before it, including the parties' briefs, the Presentence Investigation
8 Report, the "F.A.J.R. Magic Trust dated October 4, 2012" that was presented to the court by Mr.
9 Alfter's attorney at the hearing on June 1, 2017, and the parties' arguments presented in court, the
10 court concludes that under the All Writs Act, 28 U.S.C. § 1651, an order restraining the
11 disbursement of an additional \$895,000, for a total of \$975,300 (\$80,300 + \$895,000), is sufficient,
12 based on the information currently known, to prevent the frustration of collection of the anticipated
13 restitution order and further the court's exercise of its jurisdiction over sentencing by ensuring
14 assets are available to satisfy the pending restitution order. The court will enter a separate report
15 and recommendation making more detailed findings and recommendations and setting an
16 evidentiary hearing regarding the ownership of the funds.

17 IT IS THEREFORE ORDERED that the United States' Emergency Motion to Stay
18 Magistrate Judge's Order Denying the Government's Emergency Motion for Restraining Order
19 Under All Writs Act Preventing the Disbursement of All Proceeds from the Sale of Defendant's
20 Interest in Real Property and Request for a Temporary Order from the District Court to Restrain
21 Disbursement of All Proceeds from the Sale of Any Property, Real or Personal, in which Defendant
22 Has Any Interest Until the District Court Rules on the Government's Objections to the Magistrate
23 Judge's Report and Recommendation (ECF No. 170) is GRANTED as follows:


- 24 A. The escrow/title company handling the sale of the subject property must deposit a
25 total of \$975,300 (\$80,300 + \$895,000) from the proceeds of the sale of the subject
26 property with the Clerk of Court for the United States District Court for the District
27 of Nevada.
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B. The escrow/title company must send the funds by cashier's check to **Clerk of Court, United States District Court, 333 Las Vegas Boulevard South, Room 1334, Las Vegas, Nevada 89101**. The cashier's check must identify the name of the Defendant Jan Rouven Fuechtener and include the case number 2:16-cr-00100-GMN-CWH.

C. The cashier's check must be accompanied by a copy of this order as well as a completed copy of the attached certificate of cash deposit form.

IT IS FURTHER ORDERED that the Clerk of Court must not disburse the deposited funds until further order of the court.

DATED: June 1, 2017


C.W. Hoffman, Jr.
United States Magistrate Judge

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,)

4 Plaintiff,)

5 vs.)

Case #: 2:16-cr-100-GMN-CWH

6 JAN ROUVEN FUECHTENER,)

7 Defendant.)
8

9 **CERTIFICATE OF CASH DEPOSIT**

10 1. I, _____, herewith tender to the Clerk
(Name of Depositor)
11 of Court for deposit into the Registry Account of this Court cash in the amount of
12 \$_____.

13 2. This Cash Deposit:

14 A. Is tendered on behalf of: _____;
(Name of Party)

15 B. Is in the nature of the following (e.g., Interpleader Deposit, Bond in Support
16 of Temporary Restraining Order, etc.) : _____
17 _____
18 _____
19 _____

20 C. Is tendered pursuant to the following Court Order (Order must be attached
21 as required by Fed. R. Civ. P. 67(a) and LR 67-1(a)(4) and (b).) : _____
22 _____
23 _____

24 D. Is conditioned as follows: _____
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26 _____

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3. The name and address of the Legal Owner of the cash tendered herewith to whom a refund (if applicable) shall be made is:

State of Nevada)
County of _____) ss.

Dated: _____

Signature of Depositor

On _____
personally appeared before me, a
Notary Public,

(Name of Depositor)
who acknowledged that (s)he
executed the above instrument.

NOTARY PUBLIC

Dated: _____

Signature of Attorney for
Party or Party Appearing
Pro Se (If different from
Depositor)

RECEIPT:

Cash as identified herein is
hereby acknowledged as being
received this date.

Dated: _____

CLERK, U.S. DISTRICT COURT

By: _____
Deputy Clerk